

ENTERED

August 07, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ATLAS IMPORTS, INC.	§	CIVIL ACTION NO.
d/b/a THE HOUSE OF	§	4:18-cv-01115
CHANDELIERS,	§	
Plaintiff,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
ATAIN SPECIALTY	§	
INSURANCE	§	
COMPANY,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

The objections by Defendant Atain Specialty Insurance Company to the Memorandum and Recommendation signed by the Magistrate Judge are denied. Dkt 58.

The Memorandum and Recommendation resolved four motions. See Dkt 57. These are Atain's Motion for Partial Summary Judgment, Dkt 23; Atain's Motion to Exclude Sam Vacek, Dkt 24; Plaintiff Atlas Imports, Inc's Motion to Exclude Michael Spinazzola, Dkt 25; and Atlas's Motion for Partial Summary Judgment, Dkt 27. The Magistrate Judge granted Atain's motion to exclude, denied Atlas' motion to exclude, and recommended granting Atain's motion for summary judgment and denying Atlas' motion for summary judgment.

Atlas filed timely objections. Dkt 58. It seeks reversal on largely all of the Magistrate Judge's conclusions, both as to the nondispositive motions and the dispositive summary judgment motions.

When reviewing an objection to a nondispositive ruling by a magistrate judge, the district court “must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” FRCP 72(a); 28 USC § 636(b)(1)(A); see also *DHI Group Inc v Kent*, 2019 WL 1958390, *2 (SD Tex).

When reviewing recommendations on dispositive motions, a district court reviews *de novo* any conclusions by a magistrate judge to which a party has specifically objected. See 28 USC § 636(b)(1)(C); *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989). The court may accept any other portions to which there is no objection if no clear error appears on the face of the record. See *Guillory v PPG Industries, Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1420 (5th Cir 1996); see also FRCP 72(b) Advisory Comm Note (1983).

The Court has reviewed the objections, the pleadings, the record, and the applicable law. The Court has also reviewed *de novo* the specific objections by Atlas to the recommendation of the Magistrate Judge regarding the two motions for summary judgment. The objections do not overcome the detailed reasoning of the Memorandum and Recommendation. No other clear error appears.

The Memorandum and Recommendation is ADOPTED as the Memorandum and Order of this Court. Dkt 57.

The objections by Atlas are OVERRULED. Dkt 58.

SO ORDERED.

Signed on August 7, 2020, at Houston, Texas.

A handwritten signature in black ink, reading "Ch R Eskridge II". The signature is stylized with a large "C" and "E", and the "II" is written as a superscript.

Hon. Charles Eskridge
United States District Judge